

ROOFERS LOCAL NO. 30 COMBINED
PENSION FUND; BOARD OF TRUSTEES,
ROOFERS LOCAL NO. 30 COMBINED
PENSION FUND

MICHAEL O'MALLEY, in his fiduciary capacity,

CIVIL ACTION

No. 09-1445

Defendant.

AND NOW, this 18th day of June, 2010, upon consideration of Plaintiffs' Motion for Summary Judgment (Doc. No. 20), Defendant's Cross-Motion for Summary Judgment (Doc. No. 22), and the Responses and Replies thereto, it is hereby **ORDERED** that Plaintiffs' Motion is **DENIED** and Defendant's Cross-Motion is **GRANTED**. It is **FURTHER ORDERED** that:

1. The March 5, 2009 Opinion and Award and the June 20, 2009 Final Award entered by Arbitrator Ira F. Jaffe, Esquire are affirmed;
2. Consistent with Paragraph Nine of the June 20, 2009 Final Award, the Plaintiffs are **ORDERED** to refund to Defendant, no later than thirty days after the entry of this Order, all withdrawal liability payments made by Defendant, together with statutory interest

pursuant to 29 C.F.R. § 4219.31(d);¹ and

3. Defendant's request for an award of attorneys fees and costs incurred in connection with the instant action is **DENIED**.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE

¹This section provides:

Overpayments. If the plan sponsor or an arbitrator determines that payments made in accordance with the schedule of payments established by the plan sponsor have resulted in an overpayment of withdrawal liability, the plan sponsor shall refund the overpayment, with interest, in a lump sum. The plan sponsor shall credit interest on the overpayment from the date of the overpayment to the date on which the overpayment is refunded to the employer at the same rate as the rate for overdue withdrawal liability payments, as established under § 4219.32 or by the plan pursuant to § 4219.33.

29 C.F.R. § 4219.31(d).